

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND**

TRUSTEES OF THE HEATING, PIPING)
AND REFRIGERATION PENSION FUND)
9411 Philadelphia Road, Suite S)
Baltimore, MD 21237,)

TRUSTEES OF THE HEATING, PIPING)
AND REFRIGERATION MEDICAL FUND)
9411 Philadelphia Road, Suite S)
Baltimore, MD 21237,)

TRUSTEES OF THE HEATING, PIPING)
AND REFRIGERATION TRAINING FUND)
9411 Philadelphia Road, Suite S)
Baltimore, MD 21237,)

TRUSTEES OF THE M. EDDIE MOORE)
SCHOLARSHIP TRUST FUND)
9411 Philadelphia Road, Suite S)
Baltimore, MD 21237,)

C O M P L A I N T

TRUSTEES OF THE INDUSTRY PROMOTION)
FUND)
9411 Philadelphia Road, Suite S)
Baltimore, MD 21237,)

TRUSTEES OF THE LOCAL 602)
COMMUNICATIONS AND PRODUCTIVITY)
FUND)
9411 Philadelphia Road, Suite S)
Baltimore, MD 21237,)

TRUSTEES OF THE STEAMFITTERS)
LOCAL 602 RETIREMENT SAVINGS FUND)
9411 Philadelphia Road, Suite S)
Baltimore, MD 21237,)

TRUSTEES OF THE INTERNATIONAL)
TRAINING FUND,)
103 Oronoco Street)
Alexandria, Virginia 22314,)

and)

STEAMFITTERS LOCAL UNION NO. 602)
8700 Ashwood Drive, Second Floor)
Capitol Heights, Maryland 20743,)
)
Plaintiffs,)
)
v.)
)
RSC ELECTRICAL & MECHANICAL)
CONTRACTORS, INC.)
6035 Dix Street, NE)
Washington, D.C. 20019)
)
Serve: Resident Agent)
Jonathan L. Bolden)
6035 Dix Street, NE)
Washington, D.C. 20019)
)
Defendant.)
_____)

COMPLAINT

**(TO COLLECT AMOUNTS DUE TO BENEFIT FUNDS
PURSUANT TO AN AUDIT)**

PARTIES

1. The Heating, Piping and Refrigeration Pension Fund is a multiemployer employee benefit plan as those terms are defined in Sections 3(3) and (37) of the Employee Retirement Income Security Act of 1974 (“ERISA”), 29 U.S.C. §§ 1002(3) and (37). The Pension Fund was established and is maintained according to the provisions of its Restated Agreement and Declaration of Trust. The Pension Fund is administered at 9411 Philadelphia Road, Suite S, Baltimore, Maryland 21237. The Trustees are the designated fiduciaries as defined in Section 3(21) of ERISA, 29 U.S.C. § 1002(21).

2. The Heating, Piping and Refrigeration Medical Fund is a multiemployer employee benefit plan as those terms are defined in Sections 3(3) and (37) of ERISA, 29 U.S.C. §§ 1002(3) and (37). The Medical Fund was established and is maintained according to the provisions of its

Restated Agreement and Declaration of Trust. The Medical Fund is administered at 9411 Philadelphia Road, Suite S, Baltimore, Maryland 21237. The Trustees are the designated fiduciaries as defined in Section 3(21) of ERISA, 29 U.S.C. § 1002(21).

3. The Heating, Piping and Refrigeration Training Fund is a multiemployer employee benefit plan as those terms are defined in Sections 3(3) and (37) of ERISA, 29 U.S.C. §§ 1002(3) and (37). The Training Fund was established and is maintained according to the provisions of its Restated Agreement and Declaration of Trust. The Training Fund is administered at 9411 Philadelphia Road, Suite S, Baltimore, Maryland 21237. The Trustees are the designated fiduciaries as defined in Section 3(21) of ERISA, 29 U.S.C. § 1002(21).

4. The Steamfitters Local 602 Retirement Savings Fund is a multiemployer employee benefit plan as those terms are defined in Sections 3(3) and (37) of ERISA, 29 U.S.C. §§ 1002(3) and (37). The Retirement Savings Fund was established and is maintained according to the provisions of its Restated Agreement and Declaration of Trust. The Retirement Savings Fund is administered at 9411 Philadelphia Road, Suite S, Baltimore, Maryland 21237. The Trustees are the designated fiduciaries as defined in Section 3(21) of ERISA, 29 U.S.C. § 1002(21).

5. The International Training Fund is a multiemployer employee benefit plan as those terms are defined in Sections 3(3) and 3(37) of ERISA, 29 U.S.C. §§ 1002(3) and (37). The International Training Fund was established and is maintained by a Restated Trust Agreement. The International Training Fund is administered at 103 Oronoco Street, Alexandria, Virginia 22314. The Trustees are the designated fiduciaries as defined in Section 3(21) of ERISA, 29 U.S.C. § 1002(21).

6. The M. Eddie Moore Scholarship Trust Fund is a multiemployer employee benefit plan as those terms are defined in Sections 3(3) and (37) of ERISA, 29 U.S.C. §§ 1002(3) and (37). The M. Eddie Moore Scholarship Trust Fund was established and is maintained according to the provisions of its Restated Agreement and Declaration of Trust. The M. Eddie Moore Scholarship

Trust Fund is administered at 9411 Philadelphia Road, Suite S, Baltimore, Maryland 21237. The Trustees are the designated fiduciaries as defined in Section 3(21) of ERISA, 29 U.S.C. § 1002(21).

7. The Industry Promotion Fund is a trust fund established and maintained according to the provisions of its Trust Document. The Industry Promotion Fund is administered by its Trustees at 9411 Philadelphia Road, Suite S, Baltimore, Maryland 21237.

8. The Local 602 Communications and Productivity Fund is a labor-management cooperation committee as provided for in Section 302(c)(9) of the Taft-Hartley Act, 29 U.S.C. § 186(c)(9), and Section 6 of the Labor-Management Cooperation Act of 1978, 29 U.S.C. § 175a. The Communications Fund is established and maintained according to the provisions of its Restated Agreement and Declaration of Trust. The Communications Fund is administered by its Trustees at 9411 Philadelphia Road, Suite S, Baltimore, Maryland 21237.

9. Steamfitters Local Union No. 602 is an unincorporated labor organization, as that term is defined in Section 2(5) of the Labor-Management Relations Act (LMRA), 29 U.S.C. § 152(5). Steamfitters Local Union No. 602 maintains an office at 8700 Ashwood Drive, Second Floor, Capitol Heights, Maryland 20743.

10. RSC Electrical & Mechanical Contractors, Inc. (“RSC”) is a Maryland business existing under Maryland State laws and qualified to conduct business in the District of Columbia with an office located at 6035 Dix Street, NE, Washington, D.C. 20019.

11. RSC transacts or transacted business in the Maryland, Virginia and Washington, D.C. metropolitan area as a contractor or subcontractor in, among others, the pipefitting and steamfitting industry and at all times herein was an “employer in an industry affecting commerce” as defined in Sections 3(5), (9), (11), (12) and (14) of ERISA, 29 U.S.C. §§ 1002(5), (9), (11), (12) and (14); and Section 3 of the Multiemployer Pension Plan Amendments Act of 1980, 29 U.S.C. § 1001a.

12. At all relevant times RSC was and is signatory and bound to the Agreements between the Mechanical Contractors Association of Metropolitan Washington, D.C. and Steamfitters Local Union No. 602 (“Collective Bargaining Agreements”).

JURISDICTION

13. This Court has jurisdiction over this action under Sections 502 and 515 of ERISA, 29 U.S.C. §§ 1132 and 1145, and 28 U.S.C. § 1331. This is an action to collect amounts due to employee benefit plans pursuant to an audit and under the terms of the Collective Bargaining Agreements. This action also arises under federal law.

14. Venue is proper in this district pursuant to Section 502(e)(2) of ERISA, 29 U.S.C. § 1132(e), as the district in which Plaintiffs are located and administered.

15. This Court has personal jurisdiction over the Defendant pursuant to Section 502(e)(2) of ERISA, 29 U.S.C. § 1132(e)(2).

COUNT I

16. The Plaintiffs hereby restate and incorporate by reference the allegations set forth in paragraphs 1 through 15 as if fully set forth in Count I.

17. Pursuant to the Collective Bargaining Agreements, Defendant agreed to pay to the Plaintiffs certain sums of money for each hour worked by Defendant’s employees covered by the Collective Bargaining Agreements.

18. In January 2020, the certified public accounting firm of Novak Francella LLC first determined that amounts were owed to the Plaintiffs for unreported work performed from January 1, 2016 through December 31, 2018. The Plaintiffs were not aware that amounts were owed to them by the Defendant prior to that time.

19. Defendant employed certain employees covered by the Collective Bargaining Agreements, but failed to report or pay the required amount when due to the Plaintiffs for all work

performed by all employees in various months from January 1, 2016 through December 31, 2018 as required by the Collective Bargaining Agreements, the Agreement of Assent, and the Plaintiffs' Restated Agreements and Declarations of Trust in the amount of \$69,346.25.

20. The Collective Bargaining Agreements, Agreement of Assent, and the Plaintiffs' Restated Agreements and Declarations of Trust provide that an employer who fails to pay the amounts required when due shall be obligated to pay, in addition to the contributions owed, liquidated damages plus interest from the date due through the date of payment.

21. The Collective Bargaining Agreements, Agreement of Assent, and the Plaintiffs' Restated Agreements and Declarations of Trust also provide for reasonable attorneys' fees, court costs and audit fees.

WHEREFORE, the Plaintiffs pray judgment on Count I as follows:

A. That the Court finds the Defendant RSC Electrical & Mechanical Contractors, Inc. liable in the amount of contributions, interest, liquidated damages, attorney's fees, court costs, and audit costs owed to the Plaintiffs pursuant to an audit from January 1, 2016 through December 31, 2018.

B. For such further relief as the Court may deem appropriate.

Respectfully submitted,

Dated: September 29, 2020

By: /s/
(Signed by Jacob Szewczyk with permission)
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By: /s/.

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